

# Solicitor Survey 2010

## Background

Stakeholder engagement is a key component in the Board's research programme. The Board collects feedback from the profession and other stakeholders in a range of ways. From time to time we use stakeholder surveys which are carried out independently of the Board to provide us with stakeholders perceptions and views. The last major survey of the profession took place in 2005 and collected views on the impact of the Civil Legal Aid Reform, focusing on solicitors with significant caseload under civil legal aid.

The 2010 survey included those working under civil, criminal and children's legal aid. Ongoing engagement with solicitors throughout Scotland allows the Board to monitor and assess our ability to meet the needs of solicitors and applicants where we can while identifying areas for improvement. The 2010 Solicitor Survey provides valuable evidence on solicitors views and perceptions of legal aid and on the guidance and support provided by the Board. This briefing provides a summary of the key findings and what follow up action the Board has taken.

## Aims

The overarching aims of the research were:

- To collect solicitors views on a range of aspects of criminal and civil legal assistance.
- Seek solicitors views on key aspects of the Summary Justice Reforms on behalf of the Scottish Government.

## Methodology

The Board commissioned an independent company, MVA Consultancy, to carry out and report the research.

The survey was undertaken over March and April 2010. Quotas were set for civil and criminal and a total of 416 solicitors were randomly surveyed over the phone. 266 solicitors said they worked mainly on civil legal aid cases while 143 said they worked mainly on criminal legal aid cases. Just

over half of those taking part in the survey were partners in their firm (n=225).

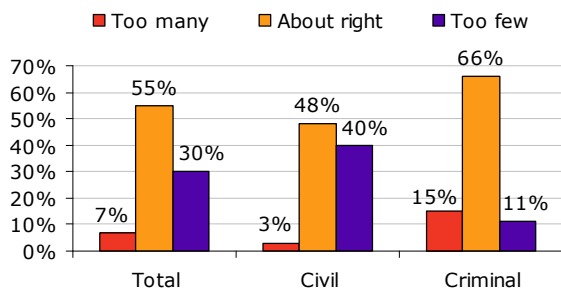
Overall the refusal rate was low and the most common reason for refusal was that it was felt the survey was not relevant due to the solicitor handling a low number of legal assistance cases. Refusals for this reason acted to enhance the representativeness of the achieved sample in that only those who considered themselves to have relevant experience took part. Among partners surveyed 78% said their firms had been providing work under legal aid for more than 10 years. The survey also met targets for urban and rural location and sherrifdom, providing views from across Scotland.

## Summary of key findings

### Solicitors views on future legal aid provision

Partners gave their view on the type and extent of legal aid provision. Most partners involved in either civil or criminal (88%) said that they were either 'certain to' (37%) or 'likely to' (51%) be doing legal aid in three years time. The proportion 'likely to' or 'certain to' be providing work under civil legal assistance is much higher than that reported in the 2005 survey (increasing from 65% to 85%).

Just over half of solicitors felt that the number of solicitors in their local area was 'about right'. Those who work mainly under civil legal aid were more likely than those working under criminal aid to think that there were 'too few' solicitors (40% compared to 11%). 15% of those working under criminal felt there were too many solicitors in their local area.



**Graph 1: Number of legal assistance solicitors**

Those in Grampian, Highland and Islands were most likely to say there were too few (63% n=35) and those in Tayside, Central and Fife were more likely to say there were 'too many' (11% n=9). Almost a third of solicitors said there was no unmet need in their local area. The top mention for unmet need was for civil legal aid in general (38%), followed by family casework (26%), non family civil cases (23%), mental health (16%) and immigration and asylum (13%).

57% of partners involved in civil legal aid said their firm is 'accepting all clients likely to be eligible for legal assistance. 10% accept 'only existing eligible clients'. Just under a third (31%) indicated that they decide on accepting new civil legal assistance clients on a case by case basis, based on various factors including the type of case and likelihood of fees incurred. Only 2% reported that they were not accepting any new clients. In the 2005 civil survey 43% of solicitors reported that they had stopped taking on new clients (n=128).

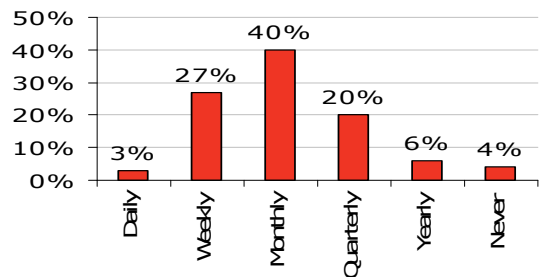
20% of firms said they are likely to recruit a trainee within the next year and two thirds of trainees will be expected to do legal aid casework.

**Communication and guidance**

The Board supports the profession in understanding legal aid processes and responding to any changes to both civil and criminal legal aid processes through regular mailshots, web updates, and for significant programmes of change using national road shows. Overall the survey shows that solicitors are well engaged with the Board.

In terms of ongoing support and communication the results are positive. A large majority feel that they are provided with enough guidance on submitting applications (80%). Use of the Board's website is high with 78% using the site at least once a month. Awareness of and reading of Board mailshots is also high. 62% always and 33% sometime reads mailshots. Only 2 respondents said they hadn't seen a mailshot. Awareness and use of the civil handbook, which is aimed at solicitors, is high. 70% use this at least monthly.

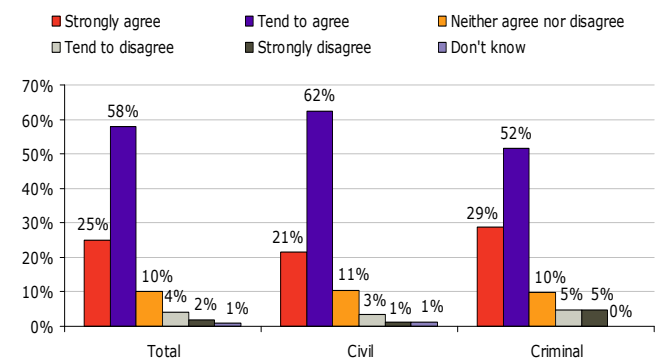
Only 1% of civil respondents said they were unaware of the handbook and only 4% (11 people) said they never used it.



**Graph 2: Frequency of handbook use**

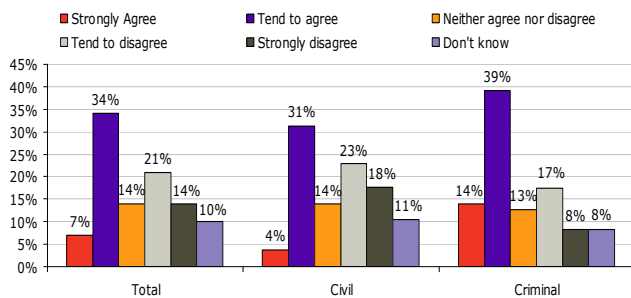
Throughout 2009 the Board invested in a programme of road shows across the country aimed at explaining the legal aid changes associated with the Summary Justice Reforms which introduced significant changes to the summary criminal justice system. Attendance at these was very high (86%) and these events were found useful (86% felt informed through attendance). Attendance at road shows to inform solicitors about ongoing changes to civil forms and processes (the Simplification Programme) was lower at 36% however this was in line with the Board's expected turnout rates and the vast majority of those that attended found the road show informative (89%).

83% (n=345) of respondents agreed that the Board provided them with sufficient guidance on applications for legal assistance (plus 10% neither agreed nor disagreed)



**Graph 3: Guidance on applications**

Overall, 41% (n=173) of all respondents agreed that the Board provided them with sufficient guidance regarding account issues while 14% were neutral (n=58) and 35% (n=147) disagreed. Agreement was higher among those that were involved in criminal accounts.



**Graph 4: Guidance on accounts**

**Forms, processes and fees**

Over 75% of criminal respondents are satisfied across most criminal application processes, a further 8-13% are neutral and 14% reported being dissatisfied. The highest satisfaction levels are for criminal summary online applications (92%).

Satisfaction levels for civil applications are also high with 84% satisfied with civil A&A/ABWOR online applications. Paper civil legal aid applications are lower with 56% satisfied. A further 10% to 18% were neutral about the application process. 85% of civil respondents felt that the introduction of templates for civil sanctions and the inclusion of a section dealing with special urgency and the mandate had been helpful. Two thirds agreed that introducing separate forms for family and non-family cases had been helpful over half agreed that the changes to the stage reporting process had reduced the need for unnecessary form filling.

80% (n=123) of all respondents who also conducted children’s legal assistance work were satisfied with the applications process to the court for children’s legal aid, 5% were neutral and only 3% reported being dissatisfied. 55% (n=84) of respondents were satisfied with the process for applications to the Board for appeal proceedings and only 6% were dissatisfied. The remainder were neutral or did not know. Around 70% of respondents were either satisfied or neutral about children’s sanctions while 15% reported dissatisfaction.

Use of the online application is strongly associated with higher satisfaction levels. On average respondents that use legal aid online (regardless of case type) are 20% more satisfied with the applications process than those that did all or most of their applications on paper. For example, 92% of respondents who submit criminal summary applications solely via legal aid online were satisfied with the process compared to 73% who solely submit them via paper forms being satisfied.

At least two thirds of criminal respondents are satisfied across all criminal accounts processes and dissatisfaction is low at an average of 12%. Civil respondents had more mixed views on the accounts process with 51% satisfied or neutral and 41% dissatisfied with the civil A&A/ABWOR accounts process. 57% were satisfied or neutral about the civil legal aid accounts process and 34% were dissatisfied. Around one quarter of respondents said they didn’t know enough about the accounts process to comment either way. This may be because civil solicitors are less likely to prepare their own accounts for civil legal assistance cases and are more likely to use a law accountant.

Civil respondents were asked whether they thought they were paid better, worse or the same as three years ago. The proportion of solicitors who said they are paid worse is lower than when the same question was asked in the Board’s 2005 Civil Reform Survey (46% in 2005 and 39% in 2010). Almost a fifth (19%) of partners perceived that they were now paid better. Solicitors were most likely to say they were paid worse for complex family cases (41%) however this area of work also shows the biggest reduction since 2005 (down from 60% in 2005). The proportion of those who ‘don’t know’ is also higher in 2010 compared with 2005.

**Summary Justice Reforms**

Criminal respondents (n=143) were also asked for their views and perceptions on some of the recent changes brought in as a result of the Summary Justice Reforms. These Reforms were led by the Scottish Government and introduced in 2008. This survey provides the perceptions of a subset of criminal lawyers about the impact of some aspects of Summary Justice Reforms. These views have been passed on to the Scottish Government and the Crown Office which may help in the wider and fuller programme for monitoring of the Reforms.

Nearly two thirds (64%) perceived that the disclosable summary informative, while three quarters (75%) found the earlier availability of these helpful. 53% said they would find it helpful (30%) or neither helpful nor unhelpful (23%) if the Board obtained electronic copies of disclosable summaries direct from the Crown while 46% said they would find it unhelpful.

Most criminal respondents (80%) did feel that allowing the appointed solicitor to grant criminal ABWOR in custody cases had succeeded in helping to bring about the earlier resolution of cases.

29% of solicitors said it has become easier to discuss potential pleas with a Procurator Fiscal

prior to the pleading diet, 18% were neutral and 52% disagreed. When asked if it had become easier at all other stages of a case the majority (55%) disagreed, 22% agreed that it now was easier to discuss potential pleas and 20% neither agreed nor disagreed.

Almost two thirds of criminal respondents (62%) felt that the changes in remuneration were assisting in the earlier resolution of cases while 31% disagreed. Over half (57%) felt that legal assistance work was not more profitable than before the Reforms. However, more than half (58%) also felt that these changes in fees had not impacted upon the services delivered to clients.

### Civil Quality Assurance

78% of all civil respondents had been subject to a peer review. Generally, civil respondents felt knowledgeable about the civil quality assurance scheme (66%), and are mostly satisfied with the scheme (59%). 63% of civil respondents were either satisfied (46%) or neutral (17%) that the civil quality assurance scheme was an effective means of ensuring the quality of the work conducted by a firm. Of the 28% who did not share this view the main reason was because they felt it only takes a snapshot of the work that is being done.

### Recent Action and Next Steps

The findings provide the Board with valuable information on a range of issues including solicitors' experiences of the Board's systems. Encouragingly feedback on the support, guidance and communication delivered by the Board is very positive overall. In much smaller proportions and only among a number of specific questions is this feedback less positive. Where this is the case the Board is taking action to address these issues and since the survey fieldwork was carried out in March 2010 a number of developments have taken place.

We have provided solicitors with updated guidance on applications and accounts by revising our civil and criminal handbooks, which can be accessed via our website. This gives solicitors improved guidance on all areas of the legal aid process and having the information in one source helps solicitors to make better use of the guidance available. In May we also updated civil solicitors on recent developments in civil legal assistance including developments in Legal Aid Online and the Simplification Programme.

Also, the Board has held a number of roadshows to provide training on submitting accounts online and these were well attended. Training on legal aid online is ongoing.

We are currently preparing to carry out in depth research with law accountants to discuss the criminal and civil accounts processes with them. As part of this engagement we will also seek their views on their forthcoming access to Legal Aid Online (LOAL) for the submission of accounts. This way we can identify any potential concerns or barriers and feed this into the future guidance and support for LOAL third party access users.

The views collected on supply complement our existing analytical programmes of work to monitor supply. Encouragingly, overall the survey indicates a relatively strong supply of legal aid solicitors and this ties in with the evidence we have from our recent analysis of applications which showed significant rises particularly in civil legal assistance. There remains a perception of under supply in some areas and we will continue to monitor application data closely at both national and local levels and will make use of Board employed solicitors where appropriate and necessary.

### Conclusion

Overall the results of the survey show that solicitors engage well with the Board. The feedback on legal aid is very positive with significantly high levels of satisfaction or neutrality expressed about the Board's processes. The satisfaction levels with online processes are particularly high. We are already looking at those areas where levels of dissatisfaction are higher than average (albeit still the minority view) and have devised a detailed action plan with timings which is being monitored and updated regularly. We will continue to engage with the profession to make the legal aid processes as effective as possible and to ensure that they support access to justice and the effective operation of the courts.

### Further information

This research briefing and the full MVA Consultancy report of the research are available on our website at:

[http://www.slab.org.uk/about\\_us/research/Stakeholderengagement.htm](http://www.slab.org.uk/about_us/research/Stakeholderengagement.htm)

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